Public Law 96-342
96th Congress

An Act

Sept. 8, 1980
[H.R. 6974]

To authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, track combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Authorization Act, 1981".

Department of Defense Authorization Act, 1981.

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,076,400,000; for the Navy and the Marine Corps, $6,150,600,000, of which $33,600,000 shall be available only for procurement of aircraft for the Navy Undergraduate Helicopter Pilot Training Program; for the Air Force, $9,365,143,000, of which $518,800,000 shall be available only for procurement of War Reserve Materiel spares.

MISSILES

For missiles: for the Army, $1,580,500,000; for the Navy, $2,236,400,000; for the Marine Corps, $94,043,000; for the Air Force, $3,176,184,000.

NAVAL VESSELS

For naval vessels: for the Navy, $8,363,200,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $2,313,500,000; for the Marine Corps, $45,825,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy $386,600,000.

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OTHER WEAPONS

For other weapons: for the Army, $334,500,000; for the Navy, $195,500,000; for the Marine Corps, $69,490,000.

AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTION TO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) FOR NATO

SEC. 102. There is authorized to be appropriated for fiscal year 1981 the sum of $382,000,000 to be available only for contribution by the United States of its share of the cost for such fiscal year of the acquisition by the North Atlantic Treaty Organization of the Airborne Warning and Control System (AWACS).

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Waiver.

SEC. 103. (a) During fiscal year 1981, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;
(B) quality assurance;
(C) codification;
(D) inspection;
(E) contract administration;
(F) acceptance testing;
(G) certification services; and
(H) planning, programming, and management services;

(2) waive any surcharge for administrative services otherwise chargeable; and

(3) in connection with the NATO E-3A Cooperative Programme for fiscal year 1981, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;
(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and
(C) the United States share of the unfunded termination liability.

Contract authority.

(b) Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

PATRIOT MISSILE SYSTEM

SEC. 104. Not more than $494,100,000 of the funds authorized to be appropriated by this title for the Army may be used for procurement of the PATRIOT missile system, and no funds authorized to be appropriated by this title for the Army may be obligated or expended for the procurement of PATRIOT missile system end-items unless and until the Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives that, based upon operational and development test-

ing conducted by the Army, the PATRIOT missile system is suitable for hardware production.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $3,248,005,000.

For the Navy (including the Marine Corps), $5,112,775,000, of which $45,251,000 is authorized only for the research, development, test, and evaluation of Lightweight Armored Vehicles.

For the Air Force, $7,159,857,000.

For the Defense Agencies, $1,367,802,000, of which $42,100,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1981 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in this title.

MX MISSILE AND BASING MODE

Congressional findings.
10 USC 139 note.

SEC. 202. (a) The Congress finds that a survivable land-based intercontinental ballistic missile (ICBM) system is vital to the security of the United States and to a stable strategic balance between the United States and the Soviet Union and that timely deployment of a new basing mode is essential to the survivability of this Nation's land-based intercontinental ballistic missiles. It is, therefore, the purpose of this section to commit the Congress to the development and deployment of the MX missile system, consisting of 200 missiles and 4,600 hardened shelters, and to insure that deployment of the entire MX system is carried out as soon as practicable.

(b) The Secretary of Defense shall proceed immediately with the full-scale engineering development of the MX missile and a Multiple Protective Structure (MPS) basing mode and shall continue such development in a manner that will achieve an Initial Operational Capability of such missile and basing mode not later than December 31, 1986.

(c) Notwithstanding any other provision of law, the initial phase of construction shall be limited to 2,300 protective shelters for the MX missile in the initial deployment area.

Study.

(d) In accordance with the finding of the Congress expressed in subsection (a), a full system of at least 4,600 protective shelters may be deployed in the initial deployment area if, after completion of a study to be conducted by the Secretary of Defense of an alternate site for a portion of the system, it is determined by the Congress that adverse cost, military considerations, or other reasons preclude split basing.

C-X AIRCRAFT PROGRAM

SEC. 203. (a) None of the funds authorized to be appropriated by this title may be obligated or expended for the full-scale engineering development or procurement of the C-X or any other new transport aircraft until the Secretary of Defense has certified in writing to the Congress—

(1) that the national security requirements of the United States for additional military airlift capability merit initiation of the C-X aircraft program;

(2) that the magnitude and nature of the military cargo and material to be airlifted to the Indian Ocean area and other areas of potential conflict are sufficiently well defined to permit identification of a deficiency in military airlift capability;

(3) that the magnitude and characteristics of military cargo and material to be transported by air to such areas are sufficiently well defined to provide clear justification and design parameters for such aircraft; and

(4) that plans for such aircraft are sufficiently well developed to make such full-scale engineering development both economical and technically feasible.

Study.

(b) The Secretary of Defense shall conduct a study to determine overall United States military mobility requirements. Such study shall include an analysis of the total mix of airlift, sealift, and prepositioning of war materials required for the United States to respond to military contingencies in the Indian Ocean area and other areas of potential conflict during the decade of the 1980's. The Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 1981, on the results of such study, together with such comments and recommendations as the Secretary considers appropriate, including recommendations for specific programs to provide an adequate overall military transportation capacity for the United States.

Report to congressional committees.

Expiration date.

(c) Not more than $35,000,000 of the funds authorized to be appropriated by this title may be obligated or expended for the C-X aircraft program. Of such amount, not more than $15,000,000 may be obligated or expended before February 1, 1981, and the remainder of such amount may be obligated or expended only after the expiration of 60 days following the submission to the Congress of the report required by subsection (b).

MULTI-ROLE STRATEGIC BOMBER

SEC. 204. (a) The Secretary of Defense shall vigorously pursue full-scale engineering development of a strategic multi-role bomber which maximizes range, payload, and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system in both the tactical and strategic role.

(b) Of the funds authorized to be appropriated for the Air Force under this title, $300,000,000 may be obligated or expended for full-scale development, following compliance with subsection (c), of a multi-role bomber aircraft to achieve an Initial Operational Capability as soon as practicable, consistent with the aircraft selected, but not later than 1987. Such aircraft shall have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system.

Status report to congressional committees.

(c) The Secretary of Defense shall submit a status report to the Committees on Armed Services of the Senate and House of Repre-

sentatives by March 15, 1981, on the results of the development effort to date. The Secretary shall include in such report comparisons of the various candidate aircraft in terms of cost and military effectiveness. Candidate aircraft shall include, but not be limited to, advanced technology aircraft, the B-1 bomber aircraft and derivatives of the B-1 aircraft, and the FB-111B/C aircraft.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATIONS SYSTEM

SEC. 205. (a) Notwithstanding the provisions of section 202 of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 92 Stat. 1612), and section 203 of the Department of Defense Authorization Act, 1980 (Public Law 96-107; 93 Stat. 805), the Secretary of the Navy shall resume research and development work on the Extremely Low Frequency (ELF) Communications System. Notwithstanding any provision of law restricting the availability of such funds, the Secretary of the Navy shall use any unobligated funds previously appropriated for such system for fiscal year 1979 for the purpose of resuming such work.

(b) Not later than April 1, 1981, the President shall submit to the Congress a plan for the deployment of an operational Extremely Low Frequency (ELF) Communications System. Plan, submittal to Congress.

RESTRICTION ON FUNDS FOR DEVELOPMENT OF THE 120-MILLIMETER TANK GUN

SEC. 206. Of the amount authorized to be appropriated for the Army by this title, not more than $62,061,000 is authorized for development of the 120-millimeter tank gun. However, none of such funds may be obligated or expended for development of such gun until (1) the Secretary of the Army prepares a plan on how the life-cycle costs for incorporating the 120-millimeter gun into the tank force of the Army can be reduced by $600,000,000 through efficient training practices, (2) the Secretary of Defense approves such plan, and (3) such plan is submitted to the Congress. Plan, submittal to Congress.

STUDY OF FAST LOGISTIC SURFACE EFFECT SHIP

SEC. 207. Of the funds appropriated to the Department of Defense for fiscal year 1980 which have not previously been obligated or expended, not more than $6,000,000 are available for study of a logistic surface effect ship weighing between 5,000 and 7,000 tons and capable of a speed of not less than 70 knots.

INCREASES IN DOLLAR CEILINGS FOR INDEPENDENT RESEARCH AND DEVELOPMENT COSTS AND BID AND PROPOSAL COSTS

SEC. 208. Section 203 of Public Law 91-441 (84 Stat. 906; 10 U.S.C. 2358 note) is amended—

(1) by striking out "$2,000,000" and "$250,000" in subsection (a)(1) and inserting in lieu thereof "$4,000,000" and "$500,000", respectively; and

(2) by adding at the end of such section the following new subsection:

"(f) On October 1, 1983, and once every three years thereafter, the Secretary of Defense may, based upon economic indices that the Secretary has selected, adjust the amounts in subsection (a)(1) of this section in accordance with economic changes reflected in those indices.".

TITLE III—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 301. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1981, as follows:

(1) The Army, 775,300.
(2) The Navy, 537,456.
(3) The Marine Corps, 188,100.
(4) The Air Force, 564,500.

LIMITATION ON ENLISTMENT AND INDUCTION OF PERSONS INTO THE ARMED FORCES WHOSE SCORE ON THE ARMED FORCES QUALIFICATION TEST IS BELOW A PRESCRIBED LEVEL

10 USC 520 note.

SEC. 302. (a) The number of male individuals (with no prior military service) enlisted or inducted into the Army during the fiscal year beginning on October 1, 1980, who are not high school graduates may not exceed, as of September 30, 1981, 35 percent of all male individuals (with no prior military service) enlisted or inducted into the Army during such fiscal year.

(b)(1) Chapter 31 of title 10, United States Code, relating to enlistments in the Armed Forces, is amended by adding at the end thereof the following new section:

10 USC 520.

"§ 520. Limitation on enlistment and induction of persons whose score on the Armed Forces Qualification Test is below a prescribed level

"(a) For the fiscal year beginning on October 1, 1980, the total number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in the armed forces during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 25 percent of the number of such persons enlisted or inducted into the armed forces during such fiscal year. For the fiscal year beginning on October 1, 1981, the number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in any armed force during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 25 percent of the number of such persons enlisted or inducted into such armed force during such fiscal year. For any fiscal year beginning after September 30, 1982, the number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in any armed force during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 20 percent of the number of such persons enlisted or inducted into such armed force during such fiscal year.

Waiver.

"(b) When the Secretary of Defense determines that, because of national security reasons, the limitation contained in subsection (a) should not be effective for any fiscal year, the Secretary may waive such limitation for such fiscal year to the extent he considers necessary, but any such waiver shall be effective only if—

"(1) the Secretary notifies the Congress in writing of such determination, of the reasons therefor, and the extent to which he proposes to waive such limitation; and

"(2) the Congress adopts a concurrent resolution stating in substance that it approves the proposed waiver.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"520. Limitation on enlistment and induction of persons whose score on the Armed Forces Qualification Test is below a prescribed level.".

(c) The Secretary of Defense shall report to the Committees on Armed Services of the Senate and House of Representatives at the end of each quarter of fiscal year 1981 whether the requirements of section 520 of title 10, United States Code, as added by subsection (b), have a negative impact on combat readiness. Report to congressional committees.

(d) It is the sense of the Congress— Recruitment in secondary educational institutions. 10 USC 503 note.

(1) that secondary educational institutions in the United States, the Commonwealth of Puerto Rico, and the territories of the United States should cooperate with the Armed Forces by allowing recruiting personnel access to such institutions; and

(2) that it is appropriate for such institutions to release to the Armed Forces information regarding students at such institutions (including such data as names, addresses, and education levels) which is relevant to recruiting individuals for service in the Armed Forces.

COMPREHENSIVE MANPOWER MOBILIZATION PLAN

SEC. 303. (a) The Secretary of Defense, in conjunction with the Director of Selective Service, shall prepare and submit to the Congress, not later than April 2, 1981, a comprehensive plan for the effective management during peacetime of the potential military manpower of the United States and for the effective mobilization during a war or national emergency of the military manpower and defense-related manpower of the United States. Such plan shall include— Plan, submittal to Congress.

(1) any new and improved procedures for the registration and classification of persons under the Military Selective Service Act, placing special emphasis on administrative and medical procedures that will result in more efficient and cost-effective screening of registrants; Registration procedures. 50 USC app. 451.

(2) new categories and equitable standards for the deferment and exemption of persons from training and service under the Military Selective Service Act; and Deferment.

(3) such other administrative changes considered necessary or appropriate to manage effectively during peacetime the potential military manpower of the United States and to mobilize effectively during a war or national emergency the military manpower and defense-related manpower of the United States.

(b) The Secretary of Defense and the Director of Selective Service shall conduct a study of the impact, if any, of the reinstatement of registration under the Military Selective Service Act, and the impact of implementing the plan described in subsection (a), on the recruitment and retention of personnel for the active duty and reserve forces of the United States. The Secretary of Defense shall submit the results of such study to the Congress not later than April 2, 1981. Study. Submittal to Congress.

(c) The Secretary of Defense shall submit a report to the Congress not later than January 31, 1981, containing the Secretary's projections for each of the five fiscal years 1981 through 1985 with respect to (1) the total manpower needs of each active duty and reserve component of the Armed Forces, and (2) the desired and planned characteristics (including educational attainment, mental ability, Report to Congress.

marital status, sex, and other pertinent personal characteristics) for the personnel of each such component.

Study.
Report to Congress.

(d) The Secretary of Defense shall conduct a study to identify the number of military personnel in each of the several skill categories needed to respond effectively in situations in which a military conflict is most likely to occur and shall submit a report to the Congress not later than April 2, 1981, containing the results of such study. Such report shall include (1) the estimated shortages in each skill category in each of the situations in which a military conflict is most likely to occur, (2) recommendations for the procedures necessary for locating and obtaining such additional skilled personnel as may be needed by the Armed Forces to respond effectively in such situations, and (3) such recommendations for changes in existing law as may be necessary to facilitate the compilation and maintenance of a current list of personnel who possess the skills required by the Armed Forces to respond effectively in such situations.

TITLE IV—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS

SEC. 401. (a) For fiscal year 1981, the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 371,300.
(2) The Army Reserve, 204,500.
(3) The Naval Reserve, 87,400.
(4) The Marine Corps Reserve, 33,700.
(5) The Air National Guard of the United States, 94,300.
(6) The Air Force Reserve, 58,800.
(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths prescribed in subsection (a), the reserve components of the Armed Forces are authorized, as of September 30, 1981, the following number of reserve component members to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 10,159.
(2) The Army Reserve, 5,400.
(3) The Naval Reserve, 708.
(4) The Marine Corps Reserve, 67.
(5) The Air National Guard of the United States, 3,207.
(6) The Air Force Reserve, 698.

(c) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

TITLE V—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 501. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1981, of 986,000.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

Report to Congress.

(c) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Personnel employed under a part-time career employment program established under section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

Employment.

5 USC 3404.
Transfer of functions.

(d) When the Secretary of Defense determines that such action is necessary in the national interest or if any conversion of commercial and industrial type functions from performance by Department of Defense personnel to performance by private contractors which was anticipated to be made during fiscal year 1981 in the Budget of the President submitted for such fiscal year is not determined to be appropriate for such conversion under established administrative criteria, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under this subsection.

Excess employees.

Notification of Congress.

(e) During fiscal year 1981, the Secretary of Defense shall manage the manpower resources of the Department of Defense in a manner that will insure that functions of the Department of Defense involving maintenance, construction, engineering acquisition, or repair activities will be provided civilian manpower resources sufficient to fulfill the work requirements for which funds have been appropri-

Manpower resources, management.

ated, on a schedule consistent with the requirements of national security and military readiness.

STRENGTHENING OF RESTRICTIONS ON CONVERSION OF PERFORMANCE OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS FROM DEPARTMENT OF DEFENSE PERSONNEL TO PRIVATE CONTRACTORS

10 USC 2304 note.

SEC. 502. (a) No commercial or industrial type function of the Department of Defense that on October 1, 1980, is being performed by Department of Defense personnel may be converted to performance by a private contractor—

(1) to circumvent any civilian personnel ceiling; or

(2) unless the Secretary of Defense provides to the Congress in a timely manner—

Notification of Congress.

(A) notification of any decision to study such commercial or industrial type function for possible performance by a private contractor;

Cost comparison.

(B) a detailed summary of a comparison of the cost of performance of such function by Department of Defense personnel and by private contractor which demonstrates that the performance of such function by a private contractor will result in a cost savings to the Government over the life of the contract and a certification that the entire cost comparison is available;

Certification of calculation.

(C) a certification that the Government calculation for the cost of performance of such function by Department of Defense personnel is based on an estimate of the most efficient and cost effective organization for performance of such function by Department of Defense personnel; and

Report.

(D) a report, to be submitted with the certification required by subparagraph (C), showing—

(i) the potential economic effect on employees affected, and the potential economic effect on the local community and Federal Government if more than 50 employees are involved, of contracting for performance of such function;

(ii) the effect of contracting for performance of such function on the military mission of such function; and

(iii) the amount of the bid accepted for the performance of such function by the private contractor whose bid is accepted and the cost of performance of such function by Department of Defense personnel, together with costs and expenditures which the Government will incur because of the contract.

Notification of Congress.

(b) If, after completion of the studies required for completion of the certification and report required by subparagraphs (C) and (D) of subsection (a)(2), a decision is made to convert to contractor performance, the Secretary of Defense shall notify Congress of such decision.

Report to Congress.

(c) The Secretary of Defense shall submit a written report to the Congress by February 1 of each fiscal year describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors during the preceding fiscal year. The Secretary shall include in each such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense personnel, and the percentage of such functions that will be performed by private contractors, during the fiscal year during which the report is submitted.

(d) This section shall take effect on October 1, 1980. Effective date.

TITLE VI—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1981, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 53,128.
(2) The Navy, 64,545.
(3) The Marine Corps, 21,393.
(4) The Air Force, 46,238.
(5) The Army National Guard of the United States, 7,177.
(6) The Army Reserve, 6,880.
(7) The Naval Reserve, 953.
(8) The Marine Corps Reserve, 3,144.
(9) The Air National Guard of the United States, 1,930.
(10) The Air Force Reserve, 1,139.

(b) In addition to the number authorized in subsection (a), the following components of the Armed Forces are authorized a military training student load to be utilized solely for one station unit training of not less than the following:

(1) The Army, 18,890.
(2) The Army National Guard of the United States, 6,839.
(3) The Army Reserve, 2,468.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1981 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

TEMPORARY REDUCTION IN THE NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS FOR THE UNIT TO BE MAINTAINED

SEC. 602. Notwithstanding the provisions of section 2031(b) of title 10, United States Code, relating to the establishment and maintenance of units of the Junior Reserve Officers' Training Corps, during the period beginning on September 1, 1980, and ending on August 31, 1981, the Secretary of any military department may maintain a unit of the Junior Reserve Officers' Training Corps at any public or private secondary educational institution if— 10 USC 2031 note.

(1) the number of physically fit students in such unit who are at least 14 years of age and are citizens or nationals of the United States is not less than (A) 10 percent of the number of students enrolled in the institution who are at least 14 years of age, or (B) 100, whichever is less; and

(2) the unit meets such other requirements (in addition to the requirements prescribed by section 2031(b) of title 10, United States Code) as may be established by the Secretary of the military department concerned.

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TITLE VII—ATTACK-RELATED CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There is hereby authorized to be appropriated for fiscal year 1981 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) the sum of $120,000,000.

IMPROVED CIVIL DEFENSE PROGRAM

SEC. 702. (a) The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) is amended by adding after title IV the following new title:

"TITLE V—IMPROVED CIVIL DEFENSE PROGRAM

"SENSE OF CONGRESS

50 USC app. 2301.

"SEC. 501. (a) It is the sense of Congress that—

"(1) a civil defense program providing for the relocation of the population of risk areas, including the larger United States cities, during a period of strategic warning resulting from an international crisis may be effective in protecting the population;

"(2) the present civil defense program should be improved; and

"(3) an improved civil defense program can be developed which could enhance the civil defense capability of the United States.

"(b) It is further the sense of Congress that an improved civil defense program should be implemented which—

"(1) enhances the survivability of the American people and its leadership in the event of nuclear war and thereby improves the basis for eventual recovery and reduces the Nation's vulnerability to a major attack;

"(2) enhances deterrence, contributes to perceptions of the United States-Soviet strategic balance and crisis stability, and reduces the possibility that the United States might be susceptible to coercion by an enemy in times of increased tension;

"(3) does not suggest any change in the United States policy of relying on strategic nuclear forces as the preponderant factor in maintaining deterrence;

"(4) includes planning for the relocation of certain segments of the population during times of international crisis; and

"(5) is adaptable to help deal with natural disasters and other peacetime emergencies.

"ELEMENTS OF AN IMPROVED CIVIL DEFENSE PROGRAM

50 USC app. 2302.

Attack- and disaster-related defense programs.

"SEC. 502. (a) In order to carry out the sense of Congress expressed in section 501, the President shall, to the extent practicable, develop and implement an improved civil defense program which includes—

"(1) a program structure for the resources to be used for attack-related civil defense;

"(2) a program structure for the resources to be used for disaster-related civil defense; and

"(3) criteria and procedures under which those resources planned for attack-related civil defense and those planned for disaster-related civil defense can be used interchangeably.

"(b) In developing a program structure for attack-related civil defense pursuant to subsection (a), the President shall give consideration to including in such program structure the following elements:

"(1) Nuclear civil protection planning for more rapid population relocation during times of international crisis.

"(2) Nuclear civil protection planning for improved inplace population protection during times of international crisis in the event circumstances preclude population relocation.

"(3) A survey of the shelters inherent in existing facilities.

"(4) Planning for the development during times of crisis of additional shelter.

"(5) Development of capabilities for shelter management.

"(6) Marking and stocking of shelters.

"(7) Development and procurement of ventilation kits for shelters.

"(8) The development of emergency evacuation plans for areas in which nuclear powerplants are located.

"(9) The improvement of civil defense warning systems.

"(10) The improvement of systems and capabilities for direction and control of emergency operations by civil governments at all levels, including further development of a network of emergency operating centers.

"(11) The improvement of radiological defense capabilities.

"(12) The improvement of emergency public information and training programs and capabilities.

"(13) The development of plans for postattack economic recovery and the development of plans for postdisaster economic recovery to the extent that planning for postdisaster economic recovery planning does not detract from planning for postattack economic recovery.

"(14) The improvement of and training in self-help nuclear war survival skills.

"(15) Civil defense-related research and development.

"(16) The development of other appropriate systems and capabilities to increase the lifesaving potential of the civil defense program.

"ADMINISTRATIVE PROVISIONS

"SEC. 503. The powers contained in titles II and IV of this Act shall be used in developing and implementing the program required by section 502.". 50 USC app. 2303. 50 USC app. 2281, 2253.

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE V—IMPROVED CIVIL DEFENSE PROGRAM

"Sec. 501. Sense of Congress.
"Sec. 502. Elements of an improved civil defense program.
"Sec. 503. Administrative provisions.".

REQUIREMENT FOR MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS

SEC. 703. (a)(1) Title II of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281-2286) is amended by adding at the end thereof the following new section:

"REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS

"SEC. 206. Notwithstanding any other provision of this Act, funds appropriated to carry out this Act may not be used for the purpose of 50 USC app. 2288.

constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this Act for such purpose.".

(2) The table of contents at the beginning of such Act is amended by adding below the item relating to section 205 the following new item:

"206. Requirement for State matching funds for construction of emergency operating centers.".

Effective date. 50 USC app. 2288 note.

(b) The amendments made by subsection (a) shall take effect on October 1, 1980.

PILOT PROGRAM TO STUDY DESIGN AND CONSTRUCTION OF BUILDINGS TO MINIMIZE EFFECTS OF NUCLEAR EXPLOSIONS

50 USC app. 2281 note.

SEC. 704. (a) The Director of the Federal Emergency Management Agency shall establish a pilot program of designing and constructing buildings to enhance the ability of the buildings to withstand nuclear explosions and to minimize the damage to such buildings caused by a nuclear explosion. Such program shall include the designing and constructing of at least two building projects chosen by the Director so that the buildings in the projects will be able to better withstand nuclear explosions and so that any damage to the buildings in the project caused by a nuclear explosion will be minimized.

Report to Congress.

(b) The Director of the Federal Emergency Management Agency shall submit a report to the Senate and the House of Representatives not later than April 1, 1981, on the establishment under subsection (a) of the pilot program.

Appropriation authorization.

(c) Of the sums authorized to be appropriated under section 701, $400,000 shall be available to carry out the pilot program established pursuant to subsection (a).

Effective date.

(d) This section shall take effect on October 1, 1980.

AUTHORIZATION TO ACQUIRE CERTAIN LEASED REAL PROPERTY AT THE FEDERAL EMERGENCY MANAGEMENT AGENCY FACILITY AT OLNEY, MARYLAND

Effective date.

SEC. 705. Effective October 1, 1980, the Director of the Federal Emergency Management Agency is authorized to acquire, in accordance with the provisions of section 201(h) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281(h)), fee title to those parcels of real property which are currently leased by such agency at the facility of such agency in Olney, Maryland, which (1) are used as a site for a communications antenna, or (2) contain the water wells for such facility.

TITLE VIII—COMPENSATION AND RELATED BENEFITS

PAY INCREASE OF 11.7 PERCENT FOR MEMBERS OF THE UNIFORMED SERVICES

37 USC 1009 note.

SEC. 801. (a) Any adjustment required under the provisions of section 1009 of title 37, United States Code, relating to adjustments in the compensation of members of the uniformed services, which would otherwise first become effective beginning with any pay period in fiscal year 1981 shall not become effective.

Effective date.

(b)(1) Subject to the provisions of paragraph (2), each element of compensation specified in section 1009(a) of title 37, United States Code, shall be increased for members of the uniformed services by

11.7 percent effective with the first pay period beginning after September 30, 1980.

(2) The President may allocate the percentage increase specified under paragraph (1) in the same manner and to the same extent the President is authorized under subsections (c) and (d) of section 1009 of title 37, United States Code, as amended by section 803 of this Act, to allocate any percentage increase described in subsection (b)(3) of section 1009 of such title, except that— *Infra.*

37 USC 1009.

(A) the provisions of subsection (d)(2)(B) of such section shall not apply to this subsection or any action of the President under this subsection; and

(B) the overall average percentage increase in the elements of compensation specified in subsection (a) of such section in the case of any member of the uniformed services with four years or less service may not exceed 11.7 percent.

RECOMMENDATIONS WITH RESPECT TO METHOD OF ADJUSTMENT OF MILITARY PAY

SEC. 802. The President shall submit to the Congress not later than April 1, 1981, such recommendations as he considers necessary or appropriate to improve the method for determining adjustments in the pay and allowances for members of the uniformed services.

Submittal to Congress.

AUTHORITY TO ALLOCATE PAY INCREASES AMONG PAY GRADES AND YEARS-OF-SERVICE CATEGORIES

SEC. 803. Section 1009 of title 37, United States Code, relating to adjustments in compensation, is amended—

(1) by striking out "subsection (c)" in clause (3) of subsection (b) and inserting in lieu thereof "subsections (c) and (d) of this section,";

(2) in subsection (c)—

(A) by inserting "(1)" before "Whenever";

(B) by inserting "of this section" after "subsection (b)(3)" both places it appears and after "subsection (a)"; and

(C) by striking out "per centum" and inserting in lieu thereof "percent";

(3) by redesignating subsection (d) as paragraph (2) and in such paragraph (as so redesignated)—

(A) by striking out "under subsection (c)" both places it appears and inserting in lieu thereof "under paragraph (1) of this subsection";

(B) by inserting "of this section" after "subsection (a)" and after "subsection (b)(3)"; and

(C) by inserting "of this title" after "section 403 (b) or (c)" both places it appears;

(4) by inserting after subsection (c) the following new subsection (d):

"(d)(1) Subject to paragraph (2) of this subsection, whenever the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in the element of basic pay that would otherwise be effective after any allocation made under subsection (c) of this section among such pay grade and years-of-service categories as he considers appropriate.

"(2) In making any allocation of an overall percentage increase in basic pay under paragraph (1) of this subsection—

"(A) the amount of the increase in basic pay for any given pay grade and years-of-service category after any allocation made under this subsection or under subsection (c) of this section (or under both such subsections) may not be less than 75 percent of the amount of the increase in the element of basic pay that would otherwise have been effective with respect to such pay grade and years-of-service category under subsection (b)(3) of this section; and

"(B) the overall percentage increase in the elements of compensation specified in subsection (a) of this section in the case of any member of the uniformed services with four years or less service may not exceed the overall percentage increase in the General Schedule rates of basic pay for civilian employees.";

(5) in subsection (e)—

(A) by inserting "or (d) of this section" after "subsection (c)"; and

(B) by striking out "among the different elements of compensation"; and

(6) in subsection (f)—

(A) by striking out "among the three elements of compensation"; and

37 USC 1008.

(B) by inserting "of this title" after "section 1008(b)".

ENLISTMENT AND REENLISTMENT BONUSES FOR ACTIVE FORCES

SEC. 804. (a)(1) Subsection (a) of section 308 of title 37, United States Code, relating to reenlistment bonuses, is amended—

(A) by striking out "ten years" in clause (A) and inserting in lieu thereof "fourteen years";

(B) by striking out "$15,000" and inserting in lieu thereof "$20,000"; and

(C) by striking out "twelve years" and inserting in lieu thereof "sixteen years".

(2) Subsection (f) of such section is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1982".

37 USC 308a.

(b)(1) Subsection (a) of section 308a of such title, relating to enlistment bonuses, is amended by striking out "$3,000" and inserting in lieu thereof "$5,000".

(2) Subsection (c) of such section is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1982".

Effective date.
37 USC 308 note.

(c) The amendments made by this section shall only apply to enlistments, reenlistments, and extensions of enlistments made after September 30, 1980.

ENLISTMENT AND REENLISTMENT BONUSES FOR RESERVE FORCES

SEC. 805. (a)(1) Chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 308c the following new sections:

37 USC 308d.

"§ 308d. Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve

"(a)(1) Except as provided in paragraph (2) of this subsection, any person who enlists or reenlists, or voluntarily extends an enlistment, in an element (other than the Selected Reserve) of the Ready Reserve

of an armed force for a period of not less than three years may be paid a bonus as provided in subsection (b) of this section.

"(2) A bonus may not be paid under this section to any person who failed to complete satisfactorily any original term of enlistment in the armed forces.

"(b) Eligibility for a bonus under this section, and the amount and method of payment of such a bonus, shall be determined in accordance with regulations prescribed under subsection (c) of this section, except that the amount of such a bonus may not exceed $600. Eligibility.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy. Regulations.

"(d)(1) A member who receives a bonus payment under this section and who fails during the period for which the bonus was paid to serve satisfactorily in the element of the Ready Reserve with respect to which the bonus was paid shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such member as the period which such member failed to satisfactorily serve bears to the total period for which the bonus was paid. Refund to U.S.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980. Discharge in bankruptcy. 11 USC 101.

"(e) No bonus may be paid under this section to any person for an enlistment, reenlistment, or voluntary extension of an enlistment after September 30, 1981. Restriction.

"§ 308e. Special pay: bonus for reserve affiliation agreement 37 USC 308e.

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may pay a bonus for reserve affiliation to any person—

"(1) who—

"(A) is serving on active duty, has 180 days or less remaining of his active duty obligation, and upon discharge or release from active duty upon the completion of such active duty obligation will have a reserve service obligation under section 651 of title 10 or under section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)); or

"(B) has served on active duty for any period of time, was discharged or released from such active duty under honorable conditions, and is serving a period of reserve service obligation under section 651 of title 10 or section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)); and

"(2) who meets the requirements of subsection (b) of this section.

"(b) To be eligible to receive a bonus for reserve affiliation under this section, a person must— Eligibility.

"(1) be eligible for reenlistment or for an extension of his active duty service;

"(2) have completed satisfactorily any term of enlistment or period of obligated active duty service;

"(3) hold and be qualified in a military specialty designated by the Secretary of Defense for the purposes of this section;

"(4) have a grade for which there is a vacancy in the reserve component in which the person is to become a member;

"(5) not be affiliating in a reserve component to become a Reserve, Army National Guard, or Air National Guard technician;

"(6) enter into a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of the Ready Reserve of an armed force for the period of obligated reserve service such person has remaining or, if such person is on active duty, will have remaining at the time of his discharge or release from active duty; and

"(7) meet all the other requirements for becoming a member of the Selected Reserve of the Ready Reserve of an armed force.

Determination of amount.

"(c)(1) The amount of the bonus paid to any person under this section shall be an amount determined by multiplying $25 times the number of months of reserve obligation such person has remaining or, if such person is on active duty, will have remaining at the time of his discharge or release from active duty.

"(2) In the case of a person who has, or at the time of discharge or release from active duty will have, eighteen months or less reserve service obligation remaining, the Secretary concerned may pay the total amount of the bonus at the time such person signs a reserve affiliation agreement under this section. In the case of a person who has, or at the time of discharge or release from active duty will have, more than eighteen months of such service remaining, the Secretary concerned may pay one-half of the bonus at the time such person signs a reserve affiliation agreement under this section and the remaining one-half on the date of the fifth anniversary of such person's original enlistment or call to active duty.

Refund to U.S.

"(d)(1) A person who signs a reserve affiliation agreement under this section and who fails during the period covered by such agreement to serve satisfactorily in the Selected Reserve in which such person agrees to serve shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the period which such person failed to satisfactorily serve bears to the total period for which the bonus was paid.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

Discharge in bankruptcy. 11 USC 101.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.

Restriction.

"(e) No bonus may be paid under this section to any person for a reserve obligation agreement entered into after September 30, 1981.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308c the following new items:

"308d. Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.

"308e. Special pay: bonus for reserve affiliation agreement.".

Effective date. 37 USC 308d note. *Ante*, p. 1092.

(3) Section 308d of title 37, United States Code, as added by paragraph (1), shall apply only to enlistments, reenlistments, and extensions of enlistments made after September 30, 1980. Agree-

ments may not be entered into under section 308e of such title, as added by such paragraph, before October 1, 1980. *Ante*, p. 1093.

(b) Sections 308b(g) and 308c(f) of such title, relating to reenlistment and enlistment bonuses for members of the Selected Reserve of the Ready Reserve, are amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985". 37 USC 308b, 308c.

CONTINUATION BONUS FOR AVIATION CAREER OFFICERS

SEC. 806. (a)(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301a the following new section:

"§ 301b. Special pay: aviation career officers extending period of active duty 37 USC 301b.

"(a) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an officer of a uniformed service who—

"(1) is entitled to aviation career incentive pay under section 301a of this title;

"(2) is in a pay grade below the pay grade of O–7;

"(3) is qualified to perform operational flying duty (as such term is defined in clause (6) of section 301a(a) of this title);

"(4) has at least 6 but less than 18 years of aviation service as an officer;

"(5) executes a written agreement to remain on active duty in aviation service for at least one year; and

"(6) is in an aviation specialty designated as critical;

may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as applicable, be paid an amount not to exceed the product of four months' basic pay (computed at the rate applicable to the officer at the time the agreement is executed) and the number of years (or the monthly fractions thereof) that the officer agrees to remain on active duty under the agreement. An agreement under this section may not extend beyond the date on which the officer would complete 19 years of aviation service. Upon acceptance of the agreement by the Secretary of Defense or the Secretary of Transportation, as appropriate, and subject to subsection (d) of this section, the total amount payable becomes fixed and may be paid in either a lump sum or in installments.

"(b) Special pay under this section is in addition to any other pay and allowances to which an officer is entitled.

"(c) For the purpose of this section, the term 'aviation service' means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer) under regulations prescribed by the Secretary of Defense or the Secretary of Transportation. The years of aviation service are computed beginning with the effective date of the initial order to perform aviation service. "Aviation service."

"(d)(1) Under regulations prescribed by the Secretary of Defense or by the Secretary of Transportation, as appropriate, refunds shall be required, on a pro-rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty in aviation service specified in the agreement. Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the agreed-upon period of active duty in Refund to U.S.

aviation service under this section shall not obligate the President to accept a resignation submitted by a regular officer.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

Discharge in bankruptcy. 11 USC 101.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 301a the following new item:

"301b. Special pay: aviation career officers extending period of active duty.".

Effective date. 37 USC 301b note.

(b) Agreements may not be entered into under section 301b of title 37, United States Code, as added by subsection (a), before October 1, 1980.

PER DIEM ALLOWANCE FOR MEMBERS TRAVELING ON OFFICIAL BUSINESS

SEC. 807. (a) Section 404(d) of title 37, United States Code, relating to per diem travel and transportation expenses, is amended by striking out "$35" and "$50" and inserting in lieu thereof "$50" and "$75", respectively.

Effective date. 37 USC 404 note.

(b) The amendments made by subsection (a) shall only apply to travel and transportation expenses incurred after September 30, 1980.

EXPENSES FOR TRANSPORTATION OF HOUSE TRAILERS AND MOBILE HOMES

SEC. 808. (a)(1) Section 409 of title 37, United States Code, is amended to read as follows:

"§ 409. Travel and transportation allowances: house trailers and mobile homes

37 USC 406.

"(a)(1) A member, or in the case of a member's death, the member's dependent, who would otherwise be entitled to transportation of baggage and household effects under section 406 of this title, may be provided transportation of a house trailer or mobile home dwelling within the continental United States, within Alaska, or between the continental United States and Alaska (or reimbursement for such transportation), if the house trailer or mobile home dwelling is intended for use as a residence by such member or dependent. Such transportation may be limited to such modes and maximum costs as may be prescribed by regulations under subsection (d) of this section.

"(2) Except as provided in subsection (c) of this section, transportation of a house trailer or mobile home dwelling under paragraph (1) of this subsection is in place of the transportation of baggage and household effects the member or member's dependent would otherwise be entitled to have provided.

"(3) The cost of transportation of a house trailer or mobile home dwelling under paragraph (1) of this subsection may not be more than the total cost of transportation (including packing, pick-up, line-haul or drayage, delivery, and unpacking) of baggage and household effects of the member or dependent having the maximum weight

authorized for the member or dependent under regulations prescribed by the Secretary concerned.

"(4) A house trailer or mobile home dwelling in transit under this section may be stored up to 180 days in accordance with regulations prescribed by the Secretary concerned.

"(b) Any payment authorized by this section may be made in advance of the transportation concerned.

"(c) A member or member's dependent who is entitled to the transportation of baggage and household effects from a place inside the continental United States or Alaska to a place outside the continental United States or Alaska, or from a place outside the continental United States or Alaska to a place inside the continental United States or Alaska, may be provided the transportation of a house trailer or mobile home dwelling under this section, but the total cost to the Government of the transportation of baggage and household effects and the transport of a house trailer or mobile home dwelling may not exceed the cost of transporting baggage and household effects of the member or dependent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

"(d) The Secretaries concerned shall prescribe regulations to carry out this section. Regulations.

"(e) In this section, 'continental United States' means the 48 contiguous States and the District of Columbia.". "Continental United States."

(2) The item relating to section 409 in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"409. Travel and transportation allowances: house trailers and mobile homes.".

(b) The amendments made by subsection (a) shall only apply to transportation of house trailers and mobile home dwellings which is completed after September 30, 1980. Effective date. 37 USC 409 note.

FAMILY SEPARATION ALLOWANCE FOR JUNIOR ENLISTED MEMBERS

SEC. 809. (a) Section 427(b) of title 37, United States Code, relating to family separation allowance, is amended by striking out "(other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years' or less service))".

(b) The amendment made by subsection (a) shall take effect with respect to months after September 1980. Effective date. 37 USC 427 note.

IMPROVEMENT IN CERTAIN BENEFITS UNDER THE CHAMPUS PROGRAM

SEC. 810. (a) Subsection (a) of section 1079 of title 10, United States Code, relating to contracts for medical care for dependents of members on active duty, is amended—

(1) by inserting "of dependents over two years of age" in clause (2) after "immunizations"; and

(2) by striking out "routine care of the newborn, well-baby care, and" in clause (3).

(b) Subsection (e)(2) of such section is amended by striking out "$350" and inserting in lieu thereof "$1,000".

(c) The amendments made by this section shall apply to medical care provided after September 30, 1980. Effective date. 10 USC 1079 note.

SUBSISTENCE ALLOWANCES FOR MEMBERS OF MARINE CORPS OFFICER CANDIDATE PROGRAMS

SEC. 811. (a) Section 209 of title 37, United States Code, relating to members of precommissioning programs, is amended by adding at the end thereof the following new subsection:

"(d)(1) Except when serving on active duty, a member who is enrolled in a Marine Corps officer candidate program which requires a baccalaureate degree as a prerequisite to being commissioned as an officer and who is not enrolled in a program established under chapter 103 of title 10 or an academy established under chapter 403, 603, or 903 of title 10 may be paid a subsistence allowance at the same rate as that prescribed by subsection (a) of this section for a member of the Senior Reserve Officers' Training Corps who is selected for advanced training under section 2104 of title 10.

10 USC 2101 *et seq.*
10 USC 4331 *et seq.*, 6951 *et seq.*, 9331 *et seq.*

"(2) No subsistence allowance may be paid under paragraph (1) of this subsection for any period after September 30, 1982.".

Restriction.

(b) The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (37 U.S.C. 209 note), is repealed.

Repeal.

CONTINGENT ONCE-A-YEAR ADJUSTMENT OF RETIRED AND RETAINER PAY

10 USC 1401a note.

SEC. 812. (a)(1) The increase in the retired and retainer pay of members and former members of the uniformed services which but for this section would be made effective September 1, 1980, under the provisions of paragraph (2)(B) of section 1401a(b) of title 10, United States Code, shall not be made.

(2)(A) In making the determination required by the provisions of paragraph (1)(A) of section 1401a(b) of title 10, United States Code, to be made on January 1, 1981, or within a reasonable time thereafter, the Secretary of Defense shall determine the percent change in the index (as such term is defined in section 1401a(a) of title 10, United States Code) published for December 1980 over the index published for December 1979 (rather than over the index published for June 1980).

(B) The increase in the retired and retainer pay of members and former members of the uniformed services to be made effective March 1, 1981, under the provisions of paragraph (2)(A) of such section shall, in lieu of the increase prescribed by such paragraph, be the percent change computed under subparagraph (A), adjusted to the nearest $\frac{1}{10}$ of one percent.

Executive order.

(3) The President shall by Executive order provide for only one cost-of-living adjustment in the annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) during the period beginning on September 1, 1980, and ending on August 31, 1981. Such adjustment shall be effective March 1, 1981, and shall be made in the same manner and percentage as the adjustment provided for in paragraphs (1) and (2) for the retired and retainer pay of members and former members of the uniformed services.

Restriction.

(4) Paragraphs (1), (2), and (3) shall not take effect unless similar legislation is enacted which provides for only one cost-of-living increase in annuities paid under subchapter III of chapter 83 of title 5, United States Code, during the period beginning on September 1, 1980, and ending on August 31, 1981.

5 USC 8331.

Effective date.

(b)(1) Effective August 31, 1981, but subject to paragraph (3), section 1401a(b) of title 10, United States Code, relating to adjustment of

retired pay and retainer pay to reflect changes in the Consumer Price Index, is amended to read as follows:

"(b) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, the Secretary of Defense shall at the same time increase the retired and retainer pay of members and former members of the armed forces by the same percent as the percentage by which annuities are increased under such section.". 5 USC 8331.

(2) The amendment made by paragraph (1) shall not take effect unless legislation is enacted which provides for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis. In the event such legislation is enacted, such amendment shall become effective with respect to adjustments in the retired pay and retainer pay of members and former members of the uniformed services at the same time that the legislation providing for such a once-a-year adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, becomes effective. Restriction. 10 USC 1401a note.

(3) If legislation described in paragraph (2) is enacted to provide for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis, the President shall exercise the authority vested in him under section 292 of the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) to provide for cost-of-living adjustments in the annuities paid under such Act on an identical basis.

(4) If at the time the first adjustment in retired and retainer pay is made under section 1401a(b) of title 10, United States Code, as amended by paragraph (1) of this subsection, the period upon which the most recent adjustment in such retired and retainer pay was computed is not identical to the period upon which the most recent adjustment in annuities under subchapter III of chapter 83 of title 5, United States Code, was computed, then the percentage increase to be made under such section 1401a(b) at the time of the first such adjustment shall be computed in the same manner as the percentage increase made at the same time in annuities under subchapter III of chapter 83 of title 5, United States Code, is computed, but shall be based on the period beginning on the last day of the period upon which the most recent adjustment in such retired and retainer pay was computed and ending on the last day of the period upon which the adjustment being made at the same time in annuities under such subchapter III is computed. The President shall by Executive order provide for a similar computation of the adjustment in annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) which is made at the same time as the increase in retired and retainer pay to which the preceeding sentence is applicable. Executive order.

(c) For the purposes of this section, the term "uniformed services" means— "Uniformed services."

(1) the Armed Forces; and

(2) the commissioned corps of the National Oceanic and Atmospheric Administration and of the Public Health Service.

CHANGE IN METHOD OF COMPUTATION OF RETIRED PAY FOR PERSONS BECOMING MEMBERS OF THE UNIFORMED SERVICES AFTER THE ENACTMENT OF THIS ACT

SEC. 813. (a)(1) Chapter 71 of title 10, United States Code, relating to computation of retired pay, is amended by adding at the end thereof the following new section:

10 USC 1407.

"§ 1407. Retired pay base

"(a)(1) The retired pay or retainer pay of any person who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, is determined using the monthly retired pay base or monthly retainer pay base computed under this section. In making any computation under this section, the rates of basic pay to be used are those most favorable to the member.

Ante, p. 1077.

"Uniformed service."

"(2) In this section, 'uniformed service' means—

"(A) any of the armed forces;

"(B) the commissioned corps of the Public Health Service; or

"(C) the commissioned corps of the National Oceanic and Atmospheric Administration.

"(b)(1) In the case of a member who is retired under section 1201 or 1202 of this title, the monthly retired pay base is—

10 USC 1201, 1202.

"(A) one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service; or

"(B) in the case of a member who served on active duty for less than 36 months, the amount equal to the total amount of basic pay which the member received during the period he served on active duty as a member of a uniformed service divided by the number of months (including any fraction thereof) which he served on active duty.

"(2) In the case of a member who is retired under section 1204 or 1205 of this title, the monthly retired pay base is—

10 USC 1204, 1205.

"(A) one thirty-sixth of the total amount of monthly basic pay which the member would have received if he had served on active duty as a member of a uniformed service during any 36 months (whether or not consecutive) during the period he was a member of a uniformed service preceding the date on which he became entitled to retired pay; or

"(B) in the case of a member who was a member for less than 36 months, the amount equal to the total amount of basic pay which he would have received if he had served on active duty during the period he was a member of a uniformed service divided by the number of months (including any fraction thereof) he was such a member.

"(3) In the case of a member who is retired under section 1331 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay to which the member would have been entitled during any 36 months (whether or not consecutive) during the period he was a member of a uniformed service had he served on active duty during such months.

10 USC 1331.

"(4) In the case of a member who is retired under section 564, 1263, 1293, or 1305 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

10 USC 564, 1263, 1293, 1305.

"(5) In the case of a member whose retired or retainer pay is recomputed under section 1402a(d) of this title, the monthly retired

Post, p. 1102.

pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(c)(1) In the case of a member whose retired pay is computed under section 3991 of this title (other than a member who is retired under section 3914 of this title) or who is entitled to retired pay under section 3992 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 10 USC 3991. 10 USC 3914. 10 USC 3992.

"(2) In the case of a member who is retired under section 3914 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member. 10 USC 3914.

"(d)(1) In the case of a member whose retired pay is computed under section 6322, 6323, 6325, 6326, 6381, 6383, 6390, 6394, 6396, 6398, or 6400 of this title or who is advanced on the retired list under section 6151 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 10 USC 6322, 6323, 6325, 6326, 6381, 6383, 6390, 6394, 6396, 6398, 6400. 10 USC 6151.

"(2) In the case of a member transferred to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the monthly retainer pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member. 10 USC 6330.

"(e)(1) In the case of a member whose retired pay is computed under section 8991 of this title (other than a member who is retired under section 8914 of this title) or who is entitled to retired pay under section 8992 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 10 USC 8991. 10 USC 8914. 10 USC 8992.

"(2) In the case of a member who is retired under section 8914 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member. 10 USC 8914.

"(f) In the case of a member who is retired under any section of title 14, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 14 USC 1.

"(g) In the case of a member whose retired pay is computed under section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o), the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(h) In the case of a member who is retired under section 210(g) or 211(a) of the Public Health Service Act (42 U.S.C. 211(g) and 212(a)), the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"Sec. 1407. Retired pay base.".

(b)(1) The table contained in section 1401 of title 10, United States Code, is amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(b). For all others, take".

Ante, p. 1100.

Ante, p. 1077.

10 USC 1402.

(2) Section 1402 of such title is amended by inserting "who first became a member of the armed forces before the date of the enactment of the Department of Defense Authorization Act, 1981, and" in subsections (a), (b), and (c) after "of an armed force".

(3)(A) Chapter 71 of such title is amended by inserting after section 1402 the following new section:

10 USC 1402a.

"§ 1402a. Recomputation of retired or retainer pay to reflect later active duty in case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981

"(a) A member of an armed force who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty as follows:

Ante, p. 1100.

Ante, p. 1077.

Column 1 Take	Column 2 Multiply by	Column 3 Subtract
Monthly retired or retainer pay base under section 1407 of this title which he would be entitled to use if— (1) he were retiring upon release from that active duty; or (2) he were transferring to the Fleet Reserve or Fleet Marine Corps Reserve upon that release from active duty.	2½ percent of the sum of— (1) the years of service that may be credited to him in computing retired pay or retainer pay; and (2) his years of active service after becoming entitled to retired pay or retainer pay.[1]	Excess over 75 percent of monthly retired or retainer pay base upon which computation is based.

[1] Before applying the percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

"(b) A member of an armed force who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who has been retired other than for physical disability and who while on active duty incurs a physical disability of at least 30 percent for which he would otherwise be eligible for retired pay under chapter 61 of this title, is entitled, upon his release from active duty, to retired pay under subsection (d).

10 USC 1201 *et seq.*

"(c) A member of an armed force who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, and who— *Ante*, p. 1077.

"(1) was retired for physical disability under section 1201 or 1204 of this title or any other law or whose name is on the temporary disability retired list; 10 USC 1201, 1204.

"(2) incurs, while on active duty after retirement or after his name was placed on the temporary disability retired list, a physical disability that is in addition to or that aggravates the physical disability for which he was retired or for which his name was placed on that list; and

"(3) is qualified under section 1201, 1202, 1204, or 1205 of this title; 10 USC 1201, 1202, 1204, 1205.

is entitled, upon his release from active duty, to retired pay under subsection (d).

"(d) A member of an armed force covered by subsection (b) or (c) may elect to receive either (1) the retired pay to which he became entitled when he retired, increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay, or (2) retired pay computed as follows: 10 USC 1401a.

Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
The monthly retired pay base computed under section 1407(b) of this title.	As member elects— (1) 2½ percent of years of service credited under section 1208 of this title; [1] or (2) the highest percentage of disability attained while on active duty after retirement or after the date when his name was placed on temporary disability retired list, as the case may be.	Amount necessary to increase product of columns 1 and 2 to 50 percent of pay upon which computation is based, if member is on temporary disability retired list.	Excess over 75 percent of monthly retired or retainer pay base upon which computation is based.

[1] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

"(e) Notwithstanding subsection (a), a member covered by that subsection may elect, upon his release from that active duty, to have his retired pay or retainer pay—

"(1) computed according to the formula set forth in subsection (a) but using the monthly retired pay base under which his retired pay or retainer pay was computed when he entered on that active duty; and

"(2) increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay.".

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10 USC 1402.

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1402 the following new item:

"Sec. 1402a. Recomputation of retired or retainer pay to reflect later active duty in case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981.".

10 USC 1373, 1403.

(C) Sections 1373 and 1403 of such title are amended by inserting "or 1402a(d)" after "1402(d)".

(D) The second sentence of section 205(a) of title 37, United States Code, is amended by inserting "and section 1402a(a)-(d)" after "1402(a)-(d)".

(c) The tables contained in sections 3991 and 3992 of title 10, United States Code, are amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(c). For all others, take".

Ante, p. 1100.
Ante, p. 1077.

(d)(1) Subsection (c) of section 6322 of title 10, United States Code, is amended to read as follows:

"(c) Each officer who is retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the highest basic pay of the grade in which retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the monthly retired pay base computed under section 1407(d) of this title.".

10 USC 6323.

(2) Subsection (e) of section 6323 of such title is amended to read as follows:

"(e) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title; multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 1405.

10 USC 6325.

(3)(A) Subsection (a)(2) of section 6325 of such title is amended to read as follows:

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of

Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

Ante, p. 1100.

Ante, p. 1077.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 1405.

(B) Subsection (b)(2) of such section is amended to read as follows:

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade he would hold if he had not received such an appointment; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(4) Clause (2) of section 6326(c) of such title is amended to read as follows:

10 USC 6326.

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement or, if he has served as senior enlisted advisor of the Navy or as sergeant major of the Marine Corps, 75 percent of the highest basic pay to which he was entitled while so serving, if that rate is higher; or

"(B) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, computed by multiplying the monthly retired pay base computed under section 1407(d) of this title by 75 percent.".

(5) Subsection (c) of section 6330 of such title is amended to read as follows:

10 USC 6330.

"(c)(1) Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled, when not on active duty, to retainer pay—

Ante, p. 1100.

Ante, p. 1077.

"(A) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay that he received at the time of transfer or, in the case of a member who has served as senior enlisted advisor of the Navy or sergeant major of the Marine Corps, of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer; or

"(B) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retainer pay base computed under section 1407(d) of this title;

multiplied by the number of years of active service in the armed forces.

10 USC 1402, *ante*, p. 1102.

"(2) A member may recompute his retainer pay under section 1402 or 1402a of this title, as appropriate, to reflect active duty after transfer.

Extraordinary heroism.

"(3) If the member has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, which determination by the Secretary is final and conclusive for all purposes, his retainer pay shall be increased by 10 percent.

"(4) In no case may a member's retainer pay be more than 75 percent of the basic pay or monthly retainer pay base upon which the computation of retainer pay is based.".

10 USC 6381.

(6)(A) Subsection (a)(2) of section 6381 of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

10 USC 1405.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(B) Subsections (b) and (c) of such section are amended by inserting "or monthly retired pay base, as the case may be," after "basic pay".

10 USC 6383.

(7) Section 6383(c)(2) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay to which he would be entitled if serving on active duty in the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½

percent of the monthly retired pay base computed under section 1407(d) of this title; *Ante*, p. 1100.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.". 10 USC 1405.

(8) Section 6390(b)(2) of such title is amended to read as follows: 10 USC 6390.

"(2) to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title; *Ante*, p. 1077.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(9) Subsection (h) of section 6394 of such title is amended to read as follows: 10 USC 6394.

"(h) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(2) in the case of a officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title; multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(10) Clause (2) of section 6396(b) of such title is amended to read as follows: 10 USC 6396.

"(2) with retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay

base upon which the computation of retired pay is based and, in the case of retired pay computed under clause (A), may not be less than 50 percent of the basic pay upon which the computation of retired pay is based.".

10 USC 6398.

(11) Clause (2) of section 6398(c)(2) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

Ante, p. 1100.

Ante, p. 1077.

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based and, in the case of retired pay computed under clause (A), may not be less than 50 percent of the basic pay upon which the computation of retired pay is based.".

10 USC 1405.

10 USC 6400.

(12) Clause (2) of section 6400(b) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 6151.

(13) Subsections (b) and (c) of section 6151 of such title are amended to read as follows:

"(b)(1) Each member, other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve, who is advanced on the retired list under this section is, unless otherwise entitled to higher retired pay, entitled to retired pay—

"(A) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade to which advanced; or

"(B) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense

Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

Ante, p. 1100.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.

10 USC 1405.

"(2) In determining the number of years to be used as a multiplier under this subsection, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

Former Fleet Reserve or Fleet Marine Corps Reserve members.

"(c)(1) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, who is advanced on the retired list under this section is entitled to retired pay based upon the grade to which advanced. Such retired pay shall be at the rate of 2½ percent of the basic pay of the grade to which advanced, determined by the same period of service used to determine the basic pay of the grade upon which his retainer pay is based, multiplied by the number of years of service creditable for his retainer pay at the time of retirement, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.

Ante, p. 1077.

"(2) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who is advanced on the retired list under this section is entitled to retired pay at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title, multiplied by the number of years of service creditable for his retainer pay at the time of retirement, but the retired pay may not be more than 75 percent of the monthly retired pay base upon which the computation of retired pay is based.".

(e) The tables contained in sections 8991 and 8992 of title 10, United States Code, are amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(e). For all others, take".

(f)(1) Subsection (b) of section 288 of title 14, United States Code, is amended to read as follows:

"(b) Except as provided in section 423(b) of this title, the retired pay of an officer retired under this section shall not be less than 50 percent of the basic pay upon which the computation of his retired pay is based.".

Infra.

(2) Section 423 of such title is amended—

14 USC 423.

(A) by striking out "The" at the beginning of such section and inserting in lieu thereof "(a) Except as provided in subsection (b), the"; and

(B) by adding at the end thereof the following new subsection:

Coast Guard officers or enlisted men.

"(b) Notwithstanding any other provision of this title, the retired pay of each officer or enlisted member of the Coast Guard who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, is computed at the

Ante, p. 1100.
10 USC 1405.

rate of 2½ percent of the monthly retired pay base (computed under section 1407(f) of title 10) multiplied by the number of years of service that may be credited to him under section 1405 of title 10, but the retired pay so computed may not be more than 75 percent of such monthly retired pay base.".

(g) Section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o) is amended to read as follows:

Commissioned officers, retired pay computation.

"SEC. 16. (a) Each commissioned officer on the retired list shall receive retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10, United States Code) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the rank with which retired; or

Ante, p. 1077.

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10, United States Code) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(g) of title 10, United States Code;

multiplied by the number of years of service that may be credited to him under section 1405 of title 10, United States Code, as if his service were service as a member of the Armed Forces, but the retired pay so computed may not exceed 75 percent of the basic pay of the rank with which retired or 75 percent of the monthly retired pay base, as the case may be.

"(b) A fractional part of a year of six months or more shall be considered a full year in computing the number of years of service for the purposes of subsection (a).".

Commissioned officers, retired pay computation.

(h)(1) Paragraph (3) of section 210(g) of the Public Health Service Act (42 U.S.C. 211(g)(3)) is amended by striking out "law)" and all that follows in such paragraph and inserting in lieu thereof "law)—

"(A) in the case of an officer who first became a member of a uniformed service before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ per centum of basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the Service; or

"(B) in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, 2½ per centum of the monthly retired pay base computed under section 1407(h) of title 10, United States Code, for each year, not in excess of thirty, of his active commissioned service in the Service.".

(2) Section 211(a) of such Act (42 U.S.C. 212(a)) is amended—

(A) by striking out "A commissioned officer" in paragraph (4) and inserting in lieu thereof "Except as provided in paragraph (6), a commissioned officer";

(B) by striking out "and his" in paragraph (5) and inserting in lieu thereof "and except as provided in paragraph (6), his"; and

(C) by adding at the end thereof the following new paragraph:

"(6) In computing retired pay under paragraph (4) or (5) in the case of any commissioned officer who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, the monthly retired pay base computed under section 1407(h) of title 10, United States Code, shall be used in lieu of using the basic pay of the highest grade held by him as such officer.".

TITLE IX—ARMED FORCES EDUCATIONAL ASSISTANCE PROGRAMS

DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE PROGRAM FOR PERSONS ENLISTING OR REENLISTING FOR SERVICE ON ACTIVE DUTY

SEC. 901. (a) Subtitle A of title 10, United States Code, is amended by inserting after chapter 106 the following new chapter:

"CHAPTER 107—EDUCATIONAL ASSISTANCE FOR PERSONS ENLISTING FOR ACTIVE DUTY

"Sec.
"2141. Educational assistance program: establishment.
"2142. Educational assistance program: eligibility.
"2143. Educational assistance: amount.
"2144. Subsistence allowance.
"2145. Adjustments of amount of educational assistance and of subsistence allowance.
"2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance.
"2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children.
"2148. Duration of entitlement.
"2149. Applications for educational assistance.

"§ 2141. Educational assistance program: establishment

10 USC 2141.

"(a) To encourage enlistments and reenlistments for service on active duty in the armed forces, the Secretary of each military department may establish a program in accordance with this chapter to provide educational assistance to persons enlisting or reenlisting in an armed force under his jurisdiction. The costs of any such program shall be borne by the Department of Defense, and a person participating in any such program may not be required to make any contribution to the program.

Costs.

"(b) The Secretary of Defense shall prescribe regulations for the administration of this chapter. Such regulations shall take account of the differences among the several armed forces.

Regulations.

"(c) In this chapter, 'enlistment' means original enlistment or reenlistment.

"Enlistment."

"§ 2142. Educational assistance program: eligibility

10 USC 2142.

"(a)(1) A program of educational assistance established under this chapter shall provide that any person enlisting or reenlisting in an armed force under the jurisdiction of the Secretary of the military department concerned who meets the eligibility requirements established by the Secretary in accordance with subsection (b) shall, subject to paragraph (3), become entitled to educational assistance under section 2143 of this title at the time of such enlistment.

"(2) The period of educational assistance to which such a person becomes entitled is one standard academic year (or the equivalent) for each year of the enlistment of such person, up to a maximum of four years. However, if the person is discharged or otherwise released from active duty after completing two years of the term of such enlistment but before completing the full term of such enlistment (or before completing four years of such term, in the case of an enlistment of more than four years), then the period of educational assistance to which the person is entitled is one standard academic year (or the equivalent) for each year of active service of such person during such term. For the purposes of the preceding sentence, a

portion of a year of active service shall be rounded to the nearest month and shall be prorated to a standard academic year.

"(3)(A) A member who is discharged or otherwise released from active duty before completing two years of active service of an enlistment which is the basis for entitlement to educational assistance under this chapter or who is discharged or otherwise released from active duty under other than honorable conditions is not entitled to educational assistance under this chapter.

"(B) Entitlement to educational assistance under this chapter may not be used until a member has completed two years of active service of the enlistment which is the basis for entitlement to such educational assistance.

"(b) In establishing requirements for eligibility for an educational assistance program under this chapter, the Secretary concerned shall limit eligibility to persons who—

"(1) enlist or reenlist for service on active duty as a member of the Army, Navy, Air Force, or Marine Corps after September 30, 1980, and before October 1, 1981;

"(2) are graduates from a secondary school; and

"(3) meet such other requirements as the Secretary may consider appropriate for the purposes of this chapter and the needs of the armed forces.

10 USC 2143.

"§ 2143. Educational assistance: amount

"(a) Subject to subsection (b), an educational assistance program established under section 2141 of this title shall provide for payment by the Secretary concerned of educational expenses incurred for instruction at an accredited institution by a person entitled to such assistance under this chapter. Expenses for which payment may be made under this section include tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or laboratory instruction. Payments under this section shall be limited to those educational expenses normally incurred by students at the institution involved.

"(b)(1) The Secretary concerned shall establish the amount of educational assistance for a standard academic year (or the equivalent) to which a person becomes entitled under this chapter at the time of an enlistment described in section 2142 of this title. Depending on the needs of the service, different amounts may be established for different categories of persons or enlistments. The amount of educational assistance to which any person is entitled shall be adjusted in accordance with section 2145 of this title.

"(2) The amount of educational assistance which may be provided to any person for a standard academic year (or the equivalent) may not exceed $1,200, adjusted in accordance with section 2145 of this title.

"Accredited institution."

"(c) In this section, 'accredited institution' means a civilian college or university or a trade, technical, or vocational school in the United States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands) that provides education at the postsecondary level and that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Secretary of Education.

10 USC 2144.

"§ 2144. Subsistence allowance

"(a) Subject to subsection (b), a person entitled to educational assistance under this chapter is entitled to receive a monthly subsistence allowance during any period for which educational assistance is

provided such person. The amount of a subsistence allowance under this section is $300 per month, adjusted in accordance with section 2145 of this title, in the case of a person pursuing a course of instruction on a full-time basis and is one-half of such amount (as so adjusted) in the case of a person pursuing a course of instruction on less than a full-time basis.

"(b) The number of months for which a subsistence allowance may be provided to any person under this section is computed on the basis of nine months for each standard academic year of educational assistance to which such person is entitled.

"(c) For purposes of subsection (a), a person shall be considered to be pursuing a course of instruction on a full-time basis if the person is enrolled in twelve or more semester hours of instruction (or the equivalent, as determined by the Secretary concerned). Full-time basis.

"§ 2145. Adjustments of amount of educational assistance and of subsistence allowance 10 USC 2145.

"(a) Once each year, the Secretary of Defense shall adjust the amount of educational assistance which may be provided to any person in any standard academic year under section 2143 of this title, and the amount of the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis, in a manner consistent with the change over the preceding twelve-month period in the average actual cost of attendance at public institutions of higher education.

"(b) In this section, 'actual cost of attendance' means the actual cost of attendance as determined by the Secretary of Education pursuant to section 411(a)(2)(B)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1070a(a)(2)(B)(iv)). "Actual cost of attendance."

"§ 2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance 10 USC 2146.

"(a) A member who is entitled to educational assistance under this chapter and who reenlists at the end of the enlistment which established such entitlement may, at the time of such reenlistment, elect to receive a lump-sum payment computed under subsection (b) in lieu of receiving such educational assistance. An election to receive such a lump-sum payment is irrevocable.

"(b) The amount of a lump-sum payment under subsection (a) is 60 percent of the sum of—

"(1) the product of (A) the rate for educational assistance under section 2143(b) of this title applicable to such member which is in effect at the time of such reenlistment, and (B) the number of standard academic years of entitlement of such member to such assistance; and

"(2) the product of (A) the rate for the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis at the time of such reenlistment, and (B) the number of months of entitlement of such member to such allowance.

"§ 2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children 10 USC 2147.

"(a)(1) A person who is entitled to educational assistance under section 2142 of this title and who reenlisted in an armed force at any time after the end of the enlistment which established such entitlement may at any time after such reenlistment elect to transfer all or any part of such entitlement to the spouse or dependent child of such

person. Any transfer under the preceding sentence may be revoked at any time by the person making the transfer.

"(2) If a person described in paragraph (1) dies before making an election authorized by such paragraph but has never made an election not to transfer such entitlement, any unused entitlement of such person shall be automatically transferred to such person's surviving spouse or (if there is no eligible surviving spouse) to such person's dependent children. A surviving spouse to whom entitlement to educational assistance is transferred under this paragraph may elect to transfer such entitlement to the dependent children of the person whose service established such entitlement.

"(3) Any transfer of entitlement under this subsection shall be made in accordance with regulations prescribed by the Secretary of the military department concerned.

"(b) A spouse or surviving spouse or a dependent child to whom entitlement is transferred under subsection (a) is entitled to educational assistance under this chapter in the same manner and at the same rate as the person from whom the entitlement was transferred.

"(c) The total amount of educational assistance available to a person entitled to educational assistance under section 2142 of this title and to the person's spouse, surviving spouse, and dependent children is the amount of educational assistance to which the person is entitled. If more than one person is being provided educational assistance for the same period by virtue of the entitlement of the same person, the subsistence allowance authorized by section 2144 of this title shall be divided in such manner as the person may specify or (if the person fails to specify) as the Secretary concerned may prescribe.

Definitions.

"(d) In this section:

"(1) 'Dependent child' has the meaning given the term 'dependent' in section 1072(2)(E) of this title.

10 USC 1072.

"(2) 'Surviving spouse' means a widow or widower who is not remarried.

10 USC 2148.

"§ 2148. Duration of entitlement

"The entitlement of any person to educational assistance under this chapter expires at the end of the ten-year period beginning on the date of the retirement or discharge or other separation from active duty of the person upon whose service such entitlement is based. In the case of a member entitled to educational assistance under this chapter who dies while on active duty and whose entitlement is transferred to a spouse or dependent child, such entitlement expires at the end of the ten-year period beginning on the date of such member's death.

10 USC 2149.

"§ 2149. Applications for educational assistance

"To receive educational assistance benefits under this chapter, a person entitled to such assistance under section 2142 or 2147 of this title shall submit an application for such assistance to the Secretary concerned in such form and manner as the Secretary concerned may prescribe.".

(b) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part III of such subtitle are amended by inserting after the item relating to chapter 106 the following new item:

"107. Educational assistance for persons enlisting for active duty..... 2141"

AUTHORIZATION TO REPAY LOANS FOR SERVICE IN THE ARMED FORCES

SEC. 902. (a)(1) Subject to the provisions of this section, the Secretary of Defense may repay any loan made, insured, or guaranteed under part B of the Higher Education Act of 1965, or any loan made under part E of such Act, after October 1, 1975. Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower. 10 USC 2141 note.

(2) The Secretary of Defense may repay loans described in paragraph (1) in the case of any person for— Loan repayment criteria.

(A) service performed (i) as an enlisted member of the Selected Reserve of the Ready Reserve of an Armed Force after September 30, 1980, and (ii) in a Reserve component and military specialty specified by the Secretary of Defense; or

(B) service performed on active duty as an enlisted member of the Armed Forces after September 30, 1980, in a military specialty specified by the Secretary of Defense.

In the case of service described in clause (A) of the first sentence of this paragraph, the Secretary of Defense may repay a loan described in paragraph (1) only if the person to whom the loan was made performed such service after the loan was made.

(b) The portion or amount of a loan that may be repaid under subsection (a) is— Percentage.

(1) 15 percent or $500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(A); or

(2) 33⅓ percent or $1,500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(B).

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) Any individual who transfers from service described in clause (A) or (B) of subsection (a)(1) of this section to service described in the other clause of such subsection during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a). Fund allocation schedule.

(g) The authority provided under this section shall apply only in the case of persons who enlist or reenlist in the Selected Reserve of the Ready Reserve of an Armed Force or enlist or reenlist for service on active duty after September 30, 1980, and before October 1, 1981.

EDUCATIONAL ASSISTANCE PILOT PROGRAM

SEC. 903. (a)(1) As a means of encouraging enlistments and reenlistments in the Armed Forces, the Secretary of Defense, on behalf of any person who enlists or reenlists in the Armed Forces after September 30, 1980, and before October 1, 1981, and who elects or has elected to participate in the Post-Vietnam Era Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code, may pay the monthly contribution otherwise deducted from the military pay of such person. No deduction may be made under section 10 USC 2141 note.

38 USC 1601 *et seq.*

1622 of title 38, United States Code, from the military pay of any person for any month to the extent that the contribution otherwise required to be made by such person under such section for such month is paid by the Secretary of Defense.

(2) No payment may be made under this section on behalf of any person for any month before the month in which such person enlisted or reenlisted in the Armed Forces or for any month before October 1980.

(b) The amount paid by the Secretary of Defense under this section on behalf of any person shall be deposited to the credit of such person in the Post-Vietnam Era Veterans Education Account established under section 1622(a) of title 38, United States Code.

38 USC 1601 *et seq.*

(c)(1) Except as provided in paragraph (2), the provisions of chapter 32 of title 38, United States Code, shall be applicable to payments made by the Secretary of Defense under this section.

Monthly payments to spouse or child.

(2) Notwithstanding the provisions of section 1631(a)(4) of title 38, United States Code, the Secretary of Defense, in the case of any person who enlists or reenlists in the Armed Forces or any officer who is ordered to active duty with the Armed Forces after September 30, 1980, and before October 1, 1981, or whose active duty obligation with the Armed Forces is extended after September 30, 1980, and before October 1, 1981, and who is a participant in the educational assistance program described in subsection (a), may make monthly payments out of the Post-Vietnam Era Veterans Education Account to the spouse or child of such person to assist such spouse or child in the pursuit of a program of education. Payments under this subsection may be made to the spouse or child of a person participating in such educational assistance program only upon the request of such person and only for such period of time as may be specified by such person. The total amount paid under this subsection in the case of any spouse or child may not exceed the amount credited to such person in the Post-Vietnam Era Veterans Education Account.

(d)(1) The authority conferred on the Secretary of Defense under this section shall be used by the Secretary only for the purpose of encouraging persons who possess critical military specialties (as determined by the Secretary of Defense) to enter or to remain in the Armed Forces.

(2) Except as otherwise provided in this section, the Secretary of Defense may offer the benefits of this section to persons eligible therefor for such period as the Secretary determines necessary or appropriate to achieve the purpose of this section.

Definitions.

(f) As used in this section:

(1) The term "program of education" shall have the same meaning as provided in chapter 32 of title 38, United States Code.

(2) The term "child" shall have the same meaning as provided in section 101(4) of title 38, United States Code.

(3) The term "Armed Forces" means the Army, Navy, Air Force, and Marine Corps.

AUTHORIZATION OF APPROPRIATIONS

10 USC 2141 note.

SEC. 904. (a) There is hereby authorized to be appropriated to carry out chapter 107 of title 10, United States Code (as added by section 901), and sections 902 and 903 a total of $75,000,000.

(b) The Secretary of Defense shall equitably allocate the amount appropriated under this section among the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), the repayment as authorized by

section 902 of loans made, insured, or guaranteed under part B of the Higher Education Act of 1965 and of loans made under part E of such Act, and the educational assistance program provided for under section 903.

REPORT ON EDUCATIONAL BENEFITS INCENTIVE PROGRAMS

SEC. 905. (a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, within 30 days after the end of each quarter of fiscal year 1981, a report on the implementation and operation of the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), and of the programs provided for under sections 902 and 903.

Submittal to congressional committees. 10 USC 2141 note.

(b) The Secretary of Defense shall also submit to such committees, not later than December 31, 1981, a report on the extent to which the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), the Post-Vietnam Era Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code, and the program established under section 902 have encouraged persons to enter or remain in the Armed Forces. The Secretary shall include in such report—

38 USC 1601 *et seq.*

Contents.

(1) an evaluation of contributory and noncontributory educational assistance programs as incentives for individuals to enter or remain in the Armed Forces;

(2) an analysis of the costs and benefits of various educational assistance incentive programs designed to encourage persons to enter and remain in the Armed Forces; and

(3) recommendations for such new programs or revision of existing programs as the Secretary determines necessary or appropriate to successfully encourage persons to enter and remain in the Armed Forces.

IMPROVEMENT AND EXTENSION OF EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE

SEC. 906. (a)(1) Section 2131(c) of title 10, United States Code, relating to educational assistance for enlisted members of the Selected Reserve of the Ready Reserve, is amended by striking out "$500" and "$2,000" and inserting in lieu thereof "$1,000" and "$4,000", respectively.

(2) The amendments made by paragraph (1) shall take effect on October 1, 1980.

Effective date. 10 USC 2131 note.

(b) Section 2135 of such title 10, United States Code, is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

TITLE X—GENERAL PROVISIONS

REQUIREMENT OF ANNUAL AUTHORIZATION OF APPROPRIATIONS FOR OPERATION AND MAINTENANCE

SEC. 1001. (a)(1) Section 138(a) of title 10, United States Code, relating to annual authorization of appropriations, is amended—

(A) by striking out "or" at the end of clause (5);

(B) by inserting "or" at the end of clause (6); and

(C) by inserting after clause (6) the following new clause:

"(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);".

10 USC 138 note.

(2) The amendments made by paragraph (1) shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981.

10 USC 138.

(b) Section 138 of such title is further amended—

(1) by striking out "subsection (e) of this section" in subsection (a)(6) and inserting in lieu thereof "subsection (f)";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection (e):

Report to Congress.

"(e)(1) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, and Marine Corps for the next fiscal year. The Secretary shall include in each such report recommendations for—

Contents.

"(A) the number of aircraft flying hours for the Army, Navy, Air Force, and Marine Corps for the next fiscal year, the number of ship steaming hours for the Navy for the next fiscal year, and the number of field training days for the combat arms battalions of the Army and Marine Corps for the next fiscal year;

"(B) the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed during the next fiscal year; and

"(C) the number of airframe reworks, aircraft engine reworks, and vehicle overhauls which should be performed by the Army, Navy, Air Force, and Marine Corps during the next fiscal year.

Funding level recommendation.

"(2) The Secretary shall also include in each such report the justification for and an explanation of the level of funding recommended in the Budget of the President for the next fiscal year for aircraft flying hours, ship steaming hours, field training days for the combat arms battalions, major repair work to be performed on ships of the Navy, airframe reworks, aircraft engine reworks, and vehicle overhauls.

Combat readiness projection.

"(3) The Secretary shall also include in each such report a projection (made in accordance with paragraph (4)) of the combat readiness proposed to be maintained during the next fiscal year of—

"(A) each Army and Marine Corps division, brigade, and regiment;

"(B) each Navy, Air Force, and Marine Corps air wing and squadron;

"(C) each Navy aircraft carrier, other major surface combatant, general purpose submarine, ballistic missile submarine, and amphibious ship;

"(D) each Air Force strategic and tactical airlift squadron; and

"(E) such other units as the Secretary considers appropriate.

"(4) Each projection made pursuant to paragraph (3) shall be made—

"(A) using the overall readiness ratings and the four resource-related readiness ratings of the Unit Status and Identity Report of the Department of Defense; and

"(B) using the levels of funding proposed in the Budget of the President for the next fiscal year.".

(c) Subsection (f) of such section, as redesignated by subsection (b)(2), is amended—

(1) by striking out "For purposes of subsection (a)(6) of this section" and inserting in lieu thereof "(1) In subsection (a)(6)"; and

(2) by adding at the end of such subsection the following new paragraph:

Definitions.

"(2) In subsection (f):

"(A) 'Combat arms battalions' means armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.

"(B) 'Major repair work' means, in the case of any ship to which such subsection is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.".

(d)(1) The heading of such section is amended to read as follows:

"§ 138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports".

(2) The item relating to such section in the table of sections at the beginning of chapter 4 of such title is amended to read as follows:

"138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports.".

DENIAL OF CERTAIN BENEFITS TO PERSONS WHO FAIL TO COMPLETE AT LEAST TWO YEARS OF AN ORIGINAL ENLISTMENT

SEC. 1002. (a) Chapter 49 of title 10, United States Code, relating to prohibitions and penalties, is amended by adding at the end thereof the following new section:

10 USC 977.

"§ 977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment

"(a) Notwithstanding any other provision of law and except as provided in subsection (b), any person who originally enlists in a regular component of the armed forces on or after the date of the enactment of the Department of Defense Authorization Act, 1981, and who fails to complete at least twenty-four months of such person's period of original enlistment shall not be eligible for any right, privilege, or benefit for which persons become eligible under any Federal program by reason of serving on active duty in the armed forces if the claim for the eligibility of such person for such right, privilege, or benefit is based upon any period of service performed by such person under such enlistment.

Ante, p. 1077.

"(b) Subsection (a) shall not apply to any person (1) who was discharged under section 1173 or chapter 61 of this title, or (2) if it is later established that such person is suffering from a disability which resulted from an injury or disease incurred in or aggravated during the period of the enlistment completed by such person and is not the result of the person's intentional misconduct and was not incurred during a period of unauthorized absence.".

10 USC 1173, 1201 *et seq.*

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment.".

DELAY OF EFFECTIVE DATE FOR CEILING ON NUMBER OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY AND OF REDUCTION IN NUMBER OF SENIOR-GRADE CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

SEC. 1003. Section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (10 U.S.C. 131 note), is amended—

(1) by striking out "October 1, 1980" in paragraph (1) and inserting in lieu thereof "October 1, 1981"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) After September 30, 1981, the total number of civilian employees of the Department of Defense in grades GS-13 through GS-18 (including positions authorized under section 1581 of title 10, United States Code) may not exceed the number equal to 96 percent of the number of such employees employed by the Department of Defense on July 30, 1977. After September 30, 1982, the total number of such employees may not exceed the number equal to 94 percent of the number of such employees employed by the Department of Defense on July 30, 1977.".

5 USC 5332 note.

BASIC PAY OF WOMEN OFFICERS OF THE NAVY SERVING IN THE GRADE OF REAR ADMIRAL

SEC. 1004. (a) Subsection (k) of section 202 of title 37, United States Code, relating to assignment of certain officers to the pay grade of rear admiral of the upper half, is amended to read as follows:

"(k) When initially appointed as a rear admiral under section 5767(c) of title 10, a woman officer of the Navy is entitled to the pay of a rear admiral of the lower half. A woman officer serving as a rear admiral under such an appointment or a subsequent appointment under that section is entitled to the basic pay of a rear admiral of the upper half when any officer who is junior to her is entitled to the basic pay of a rear admiral of the upper half as determined under subsection (a) of this section.".

(b) The amendment made by subsection (a) shall apply with respect to basic pay payable for periods beginning on or after the date of the enactment of this Act.

Effective date.
37 USC 202 note.

EXEMPTION OF CERTAIN CONTRACTS FROM CERTAIN PROFIT LIMITATIONS

SEC. 1005. (a) The provisions of sections 2382 and 7300 of title 10, United States Code, relating to profit limitation on contracts for the construction or manufacture of aircraft and naval vessels and parts thereof, shall not apply with respect to any contract for the construction or manufacture of all or any part of any aircraft or naval vessel, or to any subcontract of such a contract, for which final payment is made before October 1, 1981.

(b) Neither the Secretary of Defense nor the Secretary of the Treasury may require that any report be submitted under section 2382 or 7300 of title 10, United States Code, before October 1, 1981, and neither such Secretary may prescribe regulations to implement such sections (or either of such sections) to take effect before October 1, 1981.

10 USC 2382 note.

REPORT ON ALLIED COMMITMENTS TO DEFENSE SPENDING

SEC. 1006. (a) In recognition of the growth, relative to the United States, in the economic strength of Japan, Canada, and Western

22 USC 1928 note.

European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of Congress that— 63 Stat. 2241. 11 UST 1632.

(1) the burdens of mutual defense now assumed by the countries allied with the United States under those agreements are not commensurate with their economic resources; and

(2) the continued unwillingness of those countries to increase their contributions to the common defense to more appropriate levels would endanger the vitality, effectiveness, and cohesiveness of the alliances between those countries and the United States.

(b) It is further the sense of Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

(c) The Secretary of Defense shall submit to the Congress not later than March 1, 1981, a report providing— Report to Congress.

(1) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of the North Atlantic Treaty Organization (NATO), and by Japan, based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist;

(2) a description of efforts by the United States and of other efforts to eliminate existing disparities;

(3) estimates of the real growth in defense spending in fiscal year 1981 projected for each NATO member nation compared to the annual real growth goal in the range of 3 percent set in May 1978;

(4) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in fiscal year 1981; and

(5) an explanation of those instances in which the commitments to real growth in defense spending and to the Long-Term Defense Program have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments.

CIVIL AIR PATROL

SEC. 1007. (a) Subsection (b) of section 9441 of title 10, United States Code, relating to support of the Civil Air Patrol by the Air Force, is amended—

(1) by striking out the semicolon at the end of clause (3) and inserting in lieu thereof ", including unit capability testing missions and training missions;";

(2) by striking out "and" at the end of clause (6);

(3) by striking out the period at the end of clause (7) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new clause:

"(8) authorize the payment of aircraft maintenance expenses relating to operational missions, unit capability testing missions, and training missions.".

(b)(1) Subsection (c) of such section is amended by striking out the period and inserting in lieu thereof ", and for purposes of determining the civil liability of the Civil Air Patrol (or any member thereof) with respect to any act or omission committed by the Civil Air Patrol (or any member thereof) in fulfilling such mission, the Civil Air Patrol shall be deemed to be an instrumentality of the United States.".

Effective date.
10 USC 9441 note.

(2) The amendment made by paragraph (1) shall be effective with respect to services of the Civil Air Patrol provided to the Department of the Air Force before the date of the enactment of this Act as well as to such services provided on or after such date, but such amendment shall not be construed (A) to revive any cause of action barred by an applicable statute of limitation, or (B) to serve as grounds for the reopening or appeal of any case which became final before the date of the enactment of this Act.

ADHERENCE TO THE WAR POWERS RESOLUTION

50 USC 1541 note.

SEC. 1008. Whereas, the National Command Authority must have the capacity to carry out any military mission which is essential to the national security of the United States having in its hands in the Rapid Deployment Force an increased capability to extend the reach of our military power in an expedited manner; and whereas, without the significant safeguard of the War Powers Resolution (Public Law 93-148), United States foreign and defense policies could be subject to misinterpretation; it is therefore the sense of the Congress that the provisions of the War Powers Resolution be strictly adhered to and that the congressional consultation process specified by such Resolution be utilized strictly according to the terms of the War Powers Resolution.

50 USC 1541 note.

Approved September 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-916 (Comm. on Armed Services) and No. 96-1222 (Comm. of Conference).

SENATE REPORTS: No. 96-826 (Comm. on Armed Services) and No. 96-895 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 13-15, 21, considered and passed House.
June 28, 30, July 1, 2, considered and passed Senate, amended.
Aug. 26, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 37:
Sept. 8, Presidential statement.